UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,225	06/26/2001	Dale T. Taylor	P 280336 P11802	8570

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EXAMINER
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ART UNIT	PAPER NUMBER
2141	

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>26 July 2005</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-27</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-27</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>26 June 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2.   The claimed invention is directed to non-statutory subject matter.

Independent claims 20, 22, 24, and 26 are directed to software that is not implemented

on a *computer readable* **storage** *medium*.

Data structures not claimed as embodied in computer-readable **storage** media are

descriptive material *per se* and are not statutory because they are not capable of

causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31

USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed

data structures do not define any structural and functional interrelationships between

the data structure and other claimed aspects of the invention which permit the data

structure's functionality to be realized. In contrast, a claimed computer-readable

storage medium encoded with a data structure defines structural and functional

interrelationships between the data structure and the computer software and hardware

components which permit the data structure's functionality to be realized, and is thus

statutory.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 1 – 27 are rejected under 35 U.S.C. 102(e) as being anticipated by

Wolton et al. (U.S. Pub. No. 2004/0030741 A1) (Method and Apparatus for Search,

Visual Navigation, Analysis and Retrieval of Information from Networks with Remote

Notification and Content Delivery).

4.1   Regarding claim 1, Wolton discloses a system, comprising:

a plurality of agents capable of receiving and sending formatted information via a

network, the formatted information organized according to a pre-defined syntax

(Abstract "**automatically format results of the search** and content retrieval using a

plurality of ranking methods"; Figs. 10, 12a10 "**Format Settings** for Search Results"; p.

35, paragraph 790; p. 4, paragraph 79 "user defined visualization display types"); and

a priority rule-based coalescing mechanism connecting to the plurality of agents

via the network, the priority rule-based coalescing mechanism capable of coalescing the

formatted information received from the plurality of agents the pre-defined syntax of the

formatted information being recognized by the plurality of agents and the priority rule-based coalescing mechanism (paragraphs 62 – 67, 69, 74, 790), the priority rule-based coalescing mechanism further coalescing the formatted information within a coalesced filed and synchronizing the coalesced file according to corresponding priority rules defined with respect to each of the plurality of agents the synchronized coalesced file then being processed to generate an updated coalesced file (p. 35, paragraph 790; p. 13, paragraph 298; p. 14, paragraph 321; p. 15, paragraph 331; p. 35, paragraph 792; p. 43, paragraph 1019 (see below)).

An advantage of the present invention is the ability to rapidly and automatically update shell application programs and **priorities of subsequent agents** activity by chaining agents. This **autonomous rapid update process** using live search over a **network of disparately formatted and heterogenous information**, provides maximum recency of information to the shell environment applications. This effects better specificity, currency and relevance of information, and provides more reliable, actionable information. Further, such **information aggregation production can be based on using popularly higher ranked information sources** or known higher authority sources (p. 35, paragraph 790).

In this context, the agent configuration detail are kept from the user, and user specific application of the agent is limited to Boolean terms and Metric terms to be entered by the user. Alternatively, the remote server provisioned agents may be open source agents which are fully editable, as available from agent user community agent exchanges, which may **rank agents** and focus topic conditions for provisioning based on popularity for example (p. 13, paragraph 298).

Further, submitted **agents may be ranked according to download popularity**. The most popular agent for a particular type of task can automatically become the default agent that the server provisions to future

users an users obtaining agent updates. In this instance, the user may receive compensation incentives

to produce the best agent or agent suites for a given type of task. Such compensation incentives can

include one or more of the same compensation incentives (1) through (8) aforementioned (p. 14,

paragraph 321).

The FIG. 3 HTML report generation module 468 receives dynamic information input from the files

collected by the engine 452 or engine 476, and **parses the database of collected results according to**

desired ranking and layout preferences set up previously the user (p. 15, paragraph 331).

Further, **agents may be chained to and embedded into conventional rule** and or framed based

inference systems. For example, an agent can comprise the execution of business rules that represent

key application logic such as rules about conditions associated with the diagnosis and corrective

maintenance of a product, or rules associated with a transactional exchange system relating to price,

quantity and delivery (p. 35, paragraph 792).

The **registry** of private agent and inter-agent activities are called **agent plans**. Agent plans are matched

to external requests. The **plan registry can have ranking and priority,** so that if certain agent activities

are proposed by human users or meta-agents, the agent can select the higher ranking behavioral option

in the registry that fits the request. **Plan ranking can be designated by the human user**, or owner, of

the agent. If the human user has designated a meta-agent authority over individual agent collections, the

plan ranking of an individual agents private or inter-agent behavior can be designated, on an on-call

basis, by a meta-agent (p. 43, paragraph 1019).

4.2   Per claim 2, <u>Wolton</u> teaches the system according to claim 1, wherein each of

the agent is associated with a device group that comprises at least one device and

collects information from the at least one device in the device group (p. 35, paragraph 790; p. 43, paragraph 1019).

4.3   Regarding claim 3, <u>Wolton</u> discloses the system according to claim 2, wherein each of the plurality of agents comprises:

a device interface for interacting with the at least one device in the device group to collect information (p. 35, paragraph 790; p. 43, paragraph 1019);

an information formatting mechanism for organizing the information, collected by the device interface from the at least one device, according to a pre-defined syntax to generate formatted information (Abstract "**automatically format results of the search and content retrieval using a plurality of ranking methods**"; Figs. 10, 12a10 "**Format Settings** for Search Results"; p. 35, paragraph 790; p. 4, paragraph 79 "user defined visualization display types"); and

a network communication mechanism for communicating with the priority rule-based coalescing mechanism, sending the formatted information to the priority rule-based coalescing mechanism via the network (p. 35, paragraph 790; p. 13, paragraph 298; p. 14, paragraph 321; p. 15, paragraph 331; p. 35, paragraph 792; p. 43, paragraph 1019).

4.4   Per claims 4 – 27, the rejection of claims 1 – 3 under 35 USC 102(e) (paragraphs 4.1 – 4.3 above) applies fully.

Response to Arguments

5.   Applicant's arguments filed 7/26/05 have been fully considered but they are not persuasive.

Applicant argues a "key element of the claimed invention, namely the fact that the agents that are capable of communicating with devices running on different platforms and using different protocols." (pp. 10 – 11; arguments on 7/26/05).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "agents that are capable of communicating with devices running on different platforms and using different protocols") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Without conceding that the claim language discloses "agents that are capable of communicating with devices running on different platforms and using different protocols", Examiner points to the following passages in Wolton.

The "disparately formatted and heterogenous information" taught in paragraph 790 of Wolton points to a need to format the data before the agent manipulates the gathered information, since there are many differently formatted information types.

Also, Wolton discloses a "results formatting aspect of the invention" (paragraphs 62 – 67) wherein the agent modifies the collected information before sending.

6.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Kenneth R. Coulter whose telephone number is 571

272-3879. The examiner can normally be reached on 5 4 9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Rupal Dharia can be reached on 571 272-3880. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

KENNETH R. COULTER
PRIMARY EXAMINER

krc